

AMENDED IN ASSEMBLY APRIL 15, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 202

Introduced by Assembly Member Gonzalez

January 29, 2015

An act to add Section 2754 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 202, as amended, Gonzalez. Professional sports teams: cheerleaders: employee status.

Existing law prescribes comprehensive requirements relating to minimum wages, overtime compensation, and standards for working conditions for the protection of employees applicable to an employment relationship.

Existing law requires every employer who pays wages to a resident employee for services performed either within or without this state to deduct and withhold from those wages, except as provided, specified income taxes.

Existing law, the California Fair Employment and Housing Act, makes it an unlawful employment practice for an employer, unless based upon a bona fide occupational qualification or, except where based upon applicable security regulations to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment, or to bar or discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of

employment because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of the person.

~~This bill would~~, *bill*, for purposes of all of the provisions of state law that govern employment, including the Labor Code, the Unemployment Insurance Code, and the California Fair Employment and Housing Act, *would* require a cheerleader who is utilized by a California-based professional sports team during its ~~exhibitions~~ *exhibitions, events*, or games to be deemed an employee. The bill would also require the professional sports team to ensure that the cheerleader is classified ~~and treated~~ as an employee.

Because a violation of specified employment laws, including wage and hour laws, that would apply to California-based professional sports teams utilizing cheerleaders would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2754 is added to the Labor Code, to read:
- 2 2754. (a) For the purposes of this section, the following
- 3 definitions shall apply:
- 4 (1) "California-based team" means a team that plays a majority
- 5 of its home games in California.
- 6 (2) "Cheerleader" means an individual who performs acrobatics,
- 7 dance, or gymnastics exercises on a recurring basis. This term shall
- 8 not include an individual who is not otherwise affiliated with a
- 9 California-based professional sports team and is utilized during
- 10 its ~~exhibitions~~ *exhibitions, events*, or games no more than one time
- 11 in a calendar year.

1 (3) “Professional sports team” means a team at either a minor
2 or major league level in the sport of baseball, basketball, football,
3 ice hockey, or soccer.

4 (b) Notwithstanding any other law, for purposes of all of the
5 provisions of state law that govern employment, including this
6 code, the Unemployment Insurance Code, and the California Fair
7 Employment and Housing Act (Part 2.8 (commencing with Section
8 12900) of Division 3 of Title 2 of the Government Code), a
9 cheerleader who is utilized by a California-based professional
10 sports team *directly or through a labor contractor* during its
11 ~~exhibitions~~ *exhibitions, events*, or games, shall be deemed to be
12 an employee.

13 (c) The professional sports team shall ensure that the cheerleader
14 is classified ~~and treated~~ as an employee.

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.